

PLANNING BOARD MINUTES

May 13, 2009

Board members present:

Art Weber, Chairman Ron Wolanski, Town Planner

Jan Eckhart Frank Holbrook, Assistant Town Solicitor

Audrey Rearick

Frank Forgue

Richard Adams

Betty Jane Owen

Member absent:

Gladys Lavine

The meeting was called to order at 6:30 pm.

Minutes:

Motion by Mr. Forgue, seconded by Ms. Rearick, to approve the minutes of the April 8, 2009 regular meeting. Vote: 6-0-0.

Old Business

1. Request for release of performance bond for The Landings residential development (formerly the Anchorage), Coddington Highway, Plat 102, Lot 2.

The applicant was not present.

Mr. Wolanski stated that town staff have confirmed that all actions

required of the applicant as conditions of the administrative subdivision plan approval have been completed.

Motion by Ms. Rearick, seconded by Ms. Owen, to approve the release of the remaining performance security held by the Town.

Vote: 6-0-0.

2. Bancroft Partners, Administrative Subdivision Plan, Request for extension of conditional approval, Tuckerman Ave. Plat 122, Lots 123, 124, & 127.

Motion by Ms. Owen, seconded by Ms. Rearick, to grant a 90-day extension of the Planning Board approval. Vote: 6-0-0.

3. Omni Land Company. – 9-lot Subdivision, Request for 90-day extension of Final Subdivision Plan approval, West Main Rd., Plat 111, Lots 8, 9, 9A, 10

Attorney David Martland, representing the applicant, stated that his client continues to work toward completing items necessary to allow for recoding of the final plan. He requested that the Planning Board approve a 90-day extension of the Planning Board approval.

There was discussion of the status of the potential development of the subject property.

Motion by Ms. Rearick, seconded by Mr. Eckhart, to approve a 90-day extension of the final plan approval. Vote: 6-0-0.

4. Review of draft proposed Zoning Ordinance amendment creating a mixed-use/limited business overlay zoning district.

Mr. Weber stated that the Board has a special meeting scheduled for May 14th to discuss this matter.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue this

matter to the June 10, 2009 Planning Board meeting. Vote: 6-0-0.

5. Review of draft proposed Zoning Ordinance amendment to implement incentives to promote creation affordable housing units.

Mr. Wolanski stated that the Town Solicitor's office has provided additional comments on the proposed amendments. He suggested that a workshop-style meeting might be appropriate to review the solicitor's comments.

The Board requested that the latest draft be provided to Paul Hogan for additional review.

A special Planning Board meeting was scheduled for June 1st at 9am to review this matter.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the June 10, 2009 Planning Board meeting. Vote: 6-0-0

6. Review of draft proposed Zoning Ordinance amendments regarding the definitions of multifamily dwelling structure, and multifamily dwelling project.

Mr. Wolanski described to proposed amendments.

Following discussion the Board members indicated support for the proposal.

Motion by Mr. Adams, seconded by Ms. Rearick, to find that the proposed amendments are consistent with the Middletown Comprehensive Plan and consistent with the purposes of zoning regulation, and to refer the matter to the Town Council with a recommendation to adopt the amendments. Vote: 6-0-0.

7. Request of the Town Council for additional Planning Board review and recommendation on proposed zoning ordinance amendment

regarding senior independent living facilities, Zoning Ordinance, Article 22, in light of Town Solicitor comments.

Mr. Holbrook addressed a question raised by Ms. Coulter during the Town Council hearing regarding the ability of the Town to restrict residency of certain developments. Mr. Holbrook stated that he agrees that language in the federal statute cited by Ms. Coulter indicates that communities have the ability to restrict residency based on age. However, the term “communities” in the statute refers to individual developments, not municipalities. Municipal regulation is limited by state and federal statute. The amendments to Zoning Ordinance, Article 22 previously recommended by the Town Solicitor’s office would ensure that the Middletown’s regulations are consistent with applicable statutes.

Mr. Wolanski stated that the Board has been asked by the Town Council to again review the proposal and provide a recommendation. As previously discussed, the town could proceed with the amendments offered by the solicitor’s office in order to maintain the 55+ age restriction for one resident in each unit of a subject development. That recommendation was previously provided to the Town Council. Alternatively the town could choose to eliminate senior independent living as a development option by repealing Article 22. It has also been suggested that the Town could consider allowing for senior independent living facilities, provided that all residents are 62 years of age or older.

There was discussion of potential impact of the options on an existing development located on Forest Ave., Bay Ridge.

Mr. Weber stated that the Board is asked to review proposed zoning ordinance amendments based on town-wide application and potential impacts, rather than based on potential impacts on a specific parcel or development.

Mr. Adams stated that retaining Article 22 would allow for more compact development, which would reduce the impacts of development sprawl.

Mr. Weber stated that unrestricted single-family residential development has a greater impact on town services and facilities.

The discussion was opened to the public.

Bruce Long, of 1 Winfield Ct., stated that Forest Ave. is already the most mixed-use neighborhood in Middletown. The Bay Ridge development results in more impacts. He stated that Article 22 should be repealed.

Mr. Adams asked about the practical impact of amending article 22 as recommended by the solicitor.

Mr. Long stated that by reducing the residency requirements, the nature of the development changes.

Paul Hogan stated that in his experience, projects similar in design to Bay Ridge, even with no age restrictions, have few families with children.

Bruce Ryerson, a resident of 391 Forest Ave, described his concerns with the Bay Ridge Development. He requested that Article 22 be repealed.

Fran Coulter, of 24 Buck Rd., questioned the difference between town regulations and covenants imposed by a developer.

Mr. Wolanski stated that, as previously discussed, covenants may be more restrictive than town regulations. Enforcement of covenants is the responsibility of the homeowner's association.

Mr. Holbrook agreed.

There was additional discussion of the ability of a developer to self-impose age restrictions even where there is no town ordinance.

Alice Curran, of 429 Forest Ave., stated that Article 22 is illegal, and the Attorney Pat Hayes knew this prior to its adoption. Mrs. Curran questioned that proposed extension of Buck Rd., the land area that would be needed, and its impact on the Bay Ridge Development. She stated that the issue of impact of an amendment to Article 22 on Bay Ridge should be decided in the courts.

Board members questioned the benefit to the town of retaining Article.

Mr. Wolanski stated that it provides a development option to serve the aging baby-boomer population. It provided for restricted multi-family development in areas currently restricted to single-family development. With the possible bonuses, impacts on the town would be no more than those of an unrestricted single-family style development.

Mr. Weber stated that there appears to be limited demand for age-restricted development on Aquidneck Island. There appears to be limited benefit to the Town in promoting such development. Article 22 should be repealed.

Mr. Eckhart stated that the board should take a longer-term view, and not focus on the current housing market conditions.

Mr. Adams stated that he would like to get more information from other towns on the potential benefits to the town resulting from such developments.

Ms. Owen stated that the town should consider allowing developments with a 62+ restriction, and eliminated the possibility of a density bonus.

There was additional discussion by Board members of the potential benefits of retaining Article 22, and the ability of developers to create age-restricted developments without the need for a town ordinance.

Motion by Ms. Rearick, seconded by Ms. Owen, to recommend to the Town Council that Article 22 be repealed in its entirety. Vote: 5-1-0, with Mr. Forgue voting in opposition.

Mr. Forgue stated that repealing Article 22 would mean that the town wasted its time in the effort to adopt the ordinance allowing for senior independent living.

8. Request of the Town Council for additional Planning Board review and recommendation of draft proposed Zoning Ordinance amendment regarding permit requirements for fences.

Mr. Wolanski stated that the Town Council referred this matter back for additional consideration of proposed revisions to the draft.

The board reviewed the proposed revisions.

Motion by Ms. Owen, seconded Ms. Rearick, to recommend to the Town Council that the proposed amendment, as revised, be adopted. Vote: 6-0-0.

9. Update - Comprehensive Community Plan 5-year update

Mr. Weber stated that the Comprehensive Plan Update committee

continues its work to review and update the plan.

New Business

1. Town of Middletown, Request for Development Plan Review for proposed installation of 200 sq.ft. restroom building at the West Main Rd. Recreation Complex, Plat 102, Lot 3

Mr. Wolanski described the proposal. The TRC has referred this matter to the Planning Board for consideration of necessary waivers. Concern was expressed by some Board members over the design of the proposed building.

Motion by Ms. Rearick, seconded by Mr. Eckhart, to continue the matter to the June 10, 2009 Planning Board meeting, and to request that a modified design be considered. Vote: 6-0-0.

2. Request of the Town Council for Planning Board review and recommendation of draft proposed Zoning Ordinance amendments, Sections 600 & 703, regarding requirements for installation of tents
Several Board members questioned the need for the proposed regulations.

Mr. Wolanski stated the building official has request the amendments in order to bring local regulations into conformance with state law requirement licensing and inspection of tents greater than 120 sq.ft.

Mr. Eckhart questioned the provisions in the ordinance requiring a special use permit for tents that will be installed for more than 30 days.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the June 10, 2009 Planning Board meeting, with a special workshop-style meeting to be held on June 1st at 10am. Vote: 6-0-0.

3. Request of the Town Administrator for review of the FY10-FY14 Capital Improvement Program for consistency with the Middletown Comprehensive Plan.

Mr. Wolanski stated that the Town is in the process of considering the proposed FY10-FY14 Capital Improvement Program. A requirement of the process is that the Planning Board review the list of projects and determine the consistency of the projects with the Comprehensive Community Plan.

Board members indicated that they saw no inconsistency between the project list and the goals and policies of the Comprehensive Plan. Motion by Ms. Rearick, seconded by Mr. Forgue, to find that the list of CIP projects is not inconsistent with the Middletown Comprehensive Community Plan. Vote: 6-0-0.

**Motion by Ms. Rearick, seconded by Ms. Owen, to adjourn. Vote: 6-0-0
The meeting adjourned at 8:00pm**